

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.34777 of 2018
and W.M.P.No.40329 of 2018

1. S.Subramanian
 2. S.Jaikumar
 3. S.Prabhakar
 4. Gowri Ramachandran
 5. Shankar Ramachandran
 6. Rajesh Ramachandran
- ... Petitioners

-Vs-

1. The Collector
Collectorate Office
Tiruvallur District,
Tiruvallur.
 2. The Commissioner
HR & CE Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai - 600 034.
 3. The Special Tahsildar
Department of Survey and Settlement,
Madhavaram, Chennai.
- ... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to consider the representation of the petitioners, dated 10.07.2018 and to update the revenue records concerning Survey Nos.961 and 962 in Madhavaram village to the petitioners' name and to issue patta for the same.

For Petitioners : Mr.P.Chandrasekar

For Respondents : Mr.N.Inbanathan, AGP for R1 & R3

Ms.G.N.Jayantheswari,
Government Advocate for R2

O R D E R

The prayer sought for herein is for the issuance of a Writ of Mandamus, directing the respondents to consider the representation of the petitioners, dated 10.07.2018 and to update the revenue records concerning Survey Nos.961 and 962 in Madhavaram village to the petitioners' name and to issue patta for the same.

2. The case of the petitioners is that, in respect of land at S.Nos.961 and 962 in Madhavaram village, he wanted to get patta, as they claimed to have purchased the same from his vendor in 1969, who in turn purchased the same in 1946 from the temple authorities, namely Kailasanthar Temple and Karivaradharaja Perumal Temple, in an auction sanctioned by the HR & CE Department, by Order No.941, dated 06.03.1941 and Order No.872, dated 13.03.1946.

3. When the petitioners approached the Revenue Department to get patta along with the some other land, which were also purchased by the petitioners, though the Revenue Department were ready to give patta to other lands, they refused to give patta to the petitioners with respect of these lands in S.Nos.961 and 962, on the ground that, in the revenue records, those lands still have been shown as temple land, therefore unless and until the petitioners get NOC from the HR & CE Department, the plea of the petitioners to give patta to those lands cannot be considered, therefore on that ground, the petitioners in order to get NOC from the HR & CE Department has given the representation, dated 10.07.2018 to the second respondent and since the same has not so far been considered, he has approached this Court by filing the present writ petition.

4. Mr.P.Chandrasekar, learned counsel appearing for the petitioner, having reiterated the aforesaid facts would seek indulgence of this Court, to give a suitable direction, by way of mandamus to the second respondent, to decide the application / representation of the petitioner, dated 10.07.2018 on merits and in accordance with law within a time frame that may be stipulated by this Court and in that case, he would be satisfied.

5. On the other hand, Ms.G.N.Jayentheswari, learned AGP appearing for the second respondent, on instruction would submit that, if at all the petitioner has given any representation as claimed by him on 10.07.2018 to the second respondent, the same would be decided on merits and in accordance with law and in this regard, if need be, an opportunity of being heard also would be given to him and thereafter it would be decided on merits within a time frame.

6. Mr.N.Inbanathan, learned Additional Government Pleader appearing for the respondents 1 and 3 would submit that, since the issue now is pending with the second respondent, first they have to act upon the representation of the petitioner and once the petitioner is able to get NOC, pursuant to the said decision to be taken by the second respondent, further action in granting patta would be decided accordingly by the respondents 1 and 3, he would submit.

7. I have considered the said rival submissions made by the parties and have perused the materials placed before this Court.

8. Since the land in question claimed to have been purchased by the petitioners in the year 1969 from their vendor, who purchased the same in 1946 from the temple authorities, after the sanction given in this regard by the HR & CE Board as referred to above and therefore, this Court feels that, there could be no impediment for the second respondent to consider the request of the petitioners for grant of NOC and accordingly, the representation, dated 10.07.2018 can very well be considered and a decision can be taken and be communicated to the petitioners within a time frame. In this regard, if need arises an opportunity of being heard also can be given to the petitioner.

9. In that view of the matter, this Court is inclined to dispose of this writ petition with the following order :

There shall be a direction to the second respondent to consider and decide the representation / application made by the petitioner dated 10.07.2018 with regard to the grant of NOC for the land in S.Nos.961 and 962 at Madhavaram village for the purpose of getting patta from the Revenue Department, on the basis of the sale said to have been effected in the year 1946 and subsequently in the year 1969 and in this regard, after giving an opportunity of being heard to the petitioner, final order shall be passed by the second respondent within a period of twelve weeks from the

date of receipt of a copy of this order.

10. With this direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

tsvn

To

1. The Collector
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Tiruvallur.
2. The Commissioner
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No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai - 600 034.
3. The Special Tahsildar
Department of Survey and Settlement,
Madhavaram, Chennai.

+2cc to Mr.P.Chandrasekar, Advocate, S.R.No.23913

PMK(CO)
CB(18/05/2021)

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